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Attorneys for Complainant

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DIVISION OF MEDICAL QUALITY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

11	In the Matter of the Accusation.)	NO. D-5489
	Against:)	
12)	
	CHESTER R. BARNES, M.D.)	L-61962
13	1625 E. 4th Street)	
	Los Angeles, California 90033)	STIPULATED SETTLEMENT
14)	AND
	Physician's & Surgeon's Certificate)	DISCIPLINARY ORDER
15	No. A-28934,)	
)	
16)	
	Respondent.)	
17)	

18 IT IS HEREBY STIPULATED AND AGREED by and between the
19 parties to the above-entitled proceedings that the following
20 matters are true:

RECITALS

22 1. An Accusation, case number D-5489, is currently
23 pending against Chester R. Barnes, M.D. (hereinafter
24 "respondent"), said Accusation having been filed with the Medical
25 Board of California on October 19, 1993.

26 2. The Accusation, together with all other
27 statutorily required documents, was duly served on respondent,

1 and respondent filed his Notice of Defense contesting the
2 Accusation on or about October 28, 1993. A copy of Accusation
3 No. D-5489 is attached as Attachment "A" and hereby incorporated
4 by reference as if fully set forth.

5 3. A First Supplemental Accusation was filed in case
6 number D-5489 on or about January 21, 1994.

7 4. The First Supplemental Accusation, together with a
8 Notice to Respondent, was duly served on respondent on or about
9 January 24, 1994. The charges in the First Supplemental
10 Accusation were deemed controverted pursuant to Government Code
11 section 11507. A copy of First Supplemental Accusation No. D-
12 5489 is attached as Attachment "B" and hereby incorporated by
13 reference as if fully set forth.

14 5. The complainant, Dixon Arnett, is the Executive
15 Director of the Medical Board of California (hereinafter the
16 "Board") and brought this action solely in his official capacity.

17 6. At all times relevant herein, respondent has been
18 licensed by the Board under Physician's & Surgeon's Certificate
19 No. A-28934.

20 7. Respondent has retained Mr. Frank Albino, Esq. of
21 the firm of Parker, Milliken, Clark, O'Hara & Samuelian to act as
22 his legal counsel in this matter.

23 8. Respondent and his attorney have fully discussed
24 the charges contained in Accusation and First Supplemental
25 Accusation number D-5589, and respondent has been fully advised
26 regarding his legal rights and the effects of this stipulation.

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1 9. Respondent understands the nature of the charges
2 alleged in the Accusation and the First Supplemental Accusation
3 as constituting causes for imposing discipline upon his
4 Physician's & Surgeon's Certificate. Respondent is fully aware
5 of his right to a hearing on the charges contained in said
6 Accusation and First Supplemental Accusation, his right to
7 confront and cross-examine witnesses against him, his right to
8 reconsideration, appeal and any and all other rights which may be
9 accorded him under the California Administrative Procedure Act
10 and, with this in mind, freely, voluntarily and irrevocably
11 waives and give up such rights.

12 ADMISSIONS

13 10. Respondent admits the truth of each and every
14 allegation of Accusation No. D-5489 (Attachment A), and agrees
15 that respondent has thereby subjected his license to disciplinary
16 action. The admissions made herein are understood to be for the
17 purposes of this proceeding only, any subsequent action before
18 the Medical Board of California, or any licensing or
19 credentialing proceeding before an agency of the State of
20 California. Respondent agrees to be bound by the Board's
21 Disciplinary Order as set out below.

22 11. In consideration of the foregoing admissions and
23 findings, the parties stipulate and agree that the Board shall,
24 without further notice or formal proceeding, issue and enter the
25 following order:

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1 C. Community Services -- Free Services. Within 60
2 days of the effective date of this decision, respondent shall
3 submit to the Division for its prior approval a community service
4 program in which respondent shall provide free medical services
5 on a regular basis to a community or charitable facility or
6 agency for a total of 480 hours in 8-hour increments.

7 D. Education Course. Within 90 days of the effective
8 date of this decision, and on an annual basis thereafter,
9 respondent shall submit to the Division for its prior approval an
10 educational program or course related to pharmacology and/or drug
11 abuse, which shall not be less than 40 hours per year for each
12 year of probation. This program shall be in addition to the
13 continuing medical education requirements for re-licensure.
14 Following the completion of each course, the Division or its
15 designee may administer an examination to test respondent's
16 knowledge of the course. Respondent shall provide proof of
17 attendance for 65 hours of continuing medical education of which
18 40 hours were in satisfaction of this condition and were approved
19 in advance by the Division or its designee.

20 E. Ethics. Within 60 days of the effective date of
21 this decision, respondent shall submit to the Division for its
22 prior approval a course in Medical Ethics, which respondent shall
23 successfully complete during the first year of probation.

24 F. Oral or Written Exam. Within 60 days of the
25 effective date of this decision, respondent shall take and pass
26 an oral or written exam in family medicine, to include
27 pharmacology and patient assessment, as specified and

1 administered by the Division or its designee. If respondent
2 fails this examination, respondent must take and pass a re-
3 examination consisting of a written as well as an oral
4 examination. The waiting period between repeat examinations
5 shall be at three month intervals until success is achieved. The
6 respondent shall pay the cost of examination.

7 If respondent fails the first examination, respondent
8 shall cease the practice of medicine until the re-examination has
9 been successfully passed, as evidenced by written notice to
10 respondent from the Division. Failure to pass the required
11 examination no later than 100 days prior to the termination date
12 of probation shall constitute a violation of probation.

13 G. Cost Recovery. Within six months of the effective
14 date of this decision, respondent shall pay to the Board
15 \$1,500.00 in partial compensation for its costs of investigation.

16 H. Obey All Laws. Respondent shall obey all federal,
17 state, and local laws, and all rules governing the practice of
18 medicine in California.

19 I. Quarterly Reports. Respondent shall submit
20 quarterly declarations under penalty of perjury on forms provided
21 by the Division, stating whether there has been compliance with
22 all the conditions of probation.

23 J. Surveillance Program. Respondent shall comply
24 with the Division's probation surveillance program.

25 K. Interview With Medical Consultant. Respondent
26 shall appear in person for interviews with the Division's medical
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1 consultant upon request at various intervals and with reasonable
2 notice.

3 L. Tolling for Out-of-State Practice or Residence.

4 The period of probation shall not run during the time respondent
5 is residing or practicing outside the jurisdiction of California.
6 If, during probation, respondent moves out of the jurisdiction of
7 California to reside or practice elsewhere, respondent is
8 required to immediately notify the Division in writing of the
9 date of departure, and the date of return, if any.

10 M. Completion of Probation. Upon successful
11 completion of probation, respondent's certificate will be fully
12 restored.

13 N. Violation of Probation/Termination of Probation.

14 If respondent violates probation in any respect, the Division,
15 after giving respondent notice and the opportunity to be heard,
16 may revoke probation and carry out the disciplinary order that
17 was stayed. If an accusation or petition to revoke probation is
18 filed against respondent during probation, the Division shall
19 have continuing jurisdiction until the matter is final, and the
20 period of probation shall be extended until the matter is final.

21 CONTINGENCY

22 This stipulation shall be subject to the approval of
23 the Board. If the Board fails to adopt this stipulation as its
24 Order, the stipulation shall be of no force or effect for either
25 party, nor shall it be mentioned or referred to in any legal
26 action between the parties.


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DECISION AND ORDER

The foregoing Stipulation and Order, in case number D-5489, is hereby adopted as the Order of the Division of Medical Quality of the Medical Board of California. An effective date of May 25,, 1994, has been assigned to this Decision and Order.

Made this 25th day of April, 1994.


FOR THE DIVISION OF MEDICAL QUALITY

Attachments: Accusation, First Supplemental Accusation
barnes\stip.3

1 DANIEL E. LUNGREN, Attorney General
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MEDICAL BOARD OF CALIFORNIA
9 DIVISION OF MEDICAL QUALITY
10 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
11

12 In the Matter of the Accusation) NO. D-5489
Against:)

13)
14 CHESTER R. BARNES, M.D.) A C C U S A T I O N
1625 E. 4th Street)
15 Los Angeles, California 90033)
16 Physician's and Surgeon's)
Certificate No. A28934)
17)

18 Respondent.)
19

20 Complainant, as cause for discipline of respondent's
21 physician and surgeon's license, alleges:

22 PARTIES

23 1. Complainant, DIXON ARNETT, is the Executive Director
24 of the Medical Board of California (hereinafter "the Medical
25 Board"); he makes and files this accusation solely in his official
26 capacity.
27 //

1 2. On or about March 21, 1975, respondent, CHESTER R.
2 BARNES, M.D., was issued Physician and Surgeon's Certificate Number
3 A28934, and at all times relevant to the charges brought herein
4 this license has been in full force and effect.

5 JURISDICTION

6 3. Section 2003 of the Business and Professions Code^{1/}
7 provides, in pertinent part, that the Medical Board includes a
8 Division of Medical Quality (hereinafter "the Division"). Section
9 2004 provides, in pertinent part, that the Division is responsible
10 for the enforcement of the disciplinary provisions of the Medical
11 Practice Act; the administration and hearing of disciplinary
12 actions; carrying out disciplinary actions appropriate to findings
13 made by a medical quality review committee, the division or an
14 administrative law judge; and suspending, revoking or otherwise
15 limiting certificates after the conclusion of disciplinary actions.

16 4. Section 2227 provides that a licensee whose matter
17 has been heard or whose default has been entered and who is found
18 guilty may have his or her license revoked, have his or her right
19 to practice suspended for a period not to exceed one year, be
20 placed on probation, be publicly reprimanded, and have any other
21 action taken in relation to discipline as the division or an
22 administrative law judge may deem proper.

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27 1. All statutory references are to the Business and Professions Code, unless otherwise indicated.

1 5. Section 2234 provides that the Division shall take
2 action against any licensee who is charged with unprofessional
3 conduct. In addition to acts prohibited by other provisions of
4 Article 12 (sections 2220 through 2319), unprofessional conduct
5 includes, but is not limited to, the following:

6 "(a) Violating or attempting to violate, directly or
7 indirectly, or assisting in or abetting the violation of, or
8 conspiring to violate, any provision of this chapter [the Medical
9 Practice Act, sections 2000 through 2529.5].

10 "(b) Gross negligence.

11 "(c) Repeated negligent acts.

12 "(d) Incompetence."

13 6. Section 2242, subdivision (a), provides that
14 "[p]rescribing, dispensing, or furnishing dangerous drugs as
15 defined in Section 4211 without a good faith prior examination and
16 medical indication therefor, constitutes unprofessional conduct."

17 7. In 1990, section 4211 provided, in pertinent part,
18 that "'dangerous drug' means any drug unsafe for self-medication,
19 except veterinary drugs which are labeled as such, and includes the
20 following:

21 "

22 (c) Any other drug or device which by federal or state
23 law can be lawfully dispensed only on prescription or furnished
24 pursuant to Section 4240. [Par.]" ^{2/}

25
26 2. In 1992, changes were made to section 4211 which are not
27 relevant in this case. Section 4240, which authorizes the Board
of Pharmacy to adopt rules restricting the furnishing of drugs that
are dangerous, does not apply in this case.

1 8. Section 2238 provides that "[a] violation of any
2 federal statute or federal regulation or any of the statutes or
3 regulations of this state regulating dangerous drugs or controlled
4 substances constitutes unprofessional conduct."

5 9. Section 2237 provides, in pertinent part:

6 "(a) The conviction of a charge of violating any federal
7 statutes or regulations . . . regulating dangerous drugs or
8 controlled substances, constitutes unprofessional conduct. The
9 record of the conviction is conclusive evidence of such
10 unprofessional conduct. A plea or verdict of guilty or a
11 conviction following a plea of nolo contendere is deemed to be a
12 conviction within the meaning of this section.

13 "(b) Discipline may be ordered in accordance with Section
14 2227 . . . when an order granting probation is made suspending the
15 imposition of sentence, irrespective of a subsequent order under
16 the provisions of Section 1203.4 of the Penal Code . . . setting
17 aside the verdict of guilty, or dismissing the accusation,
18 complaint, information, or indictment."

19 10. . Section 2236 provides, in pertinent part:

20 "(a) The conviction of any offense substantially related
21 to the qualifications, functions, or duties of a physician and
22 surgeon constitutes unprofessional conduct within the meaning of
23 this chapter. The record of conviction shall be conclusive
24 evidence only of the fact that the conviction occurred.

25 "(b) The division may inquire into the circumstances
26 surrounding the commission of the crime in order to fix the degree
27 of discipline or to determine if such conviction is of an offense

1 substantially related to the qualifications, functions, or duties
2 of a physician and surgeon. A plea or verdict of guilty or a
3 conviction following a plea of nolo contendere made to a charge
4 substantially related to the qualifications, functions, or duties
5 of a physician and surgeon is deemed to be a conviction within the
6 meaning of this section.

7 "(c) Discipline may be ordered in accordance with Section
8 2227 . . . when an order granting probation is made suspending the
9 imposition of sentence, irrespective of a subsequent order under
10 the provisions of Section 1203.4 of the Penal Code . . . setting
11 aside the verdict of guilty, or dismissing the accusation,
12 complaint, information, or indictment."

13 11. Section 490 provides that a board or division "may
14 suspend or revoke a license on the ground that the licensee has
15 been convicted of a crime, if the crime is substantially related
16 to the qualifications, functions, or duties of the business or
17 profession for which the license was issued. A conviction within
18 the meaning of this section means a plea or verdict of guilty or
19 a conviction following a plea of nolo contendere. . . ."

20 12. Section 725 provides that "[r]epeated acts of
21 clearly excessive prescribing or administering of drugs . . . as
22 determined by the standard of the community of licensees is
23 unprofessional conduct for a physician and surgeon"

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1 CAUSES FOR DISCIPLINING LICENSE IN THIS CASE

2 I

3 PRESCRIBING WITHOUT MEDICAL INDICATION

4 13. Respondent is subject to disciplinary action under
5 section 2234, subdivision (a), in conjunction with section 2242,
6 subdivision (a), in that he prescribed or attempted to prescribe,
7 directly or indirectly, or assisted in or abetted the prescription
8 of, or conspired to prescribe dangerous drugs without a good faith
9 prior examination and without medical indication on seven occasions
10 in 1990. The circumstances are as follows:

11 July 12, 1990

12 A. On or about July 12, 1990, a Special Agent of the
13 Drug Enforcement Administration (DEA) using the undercover
14 identity "Estella O [REDACTED]" visited the Aliso Medical Clinic
15 located at 1625 East 4th Street, Los Angeles, California.

16 B. The agent completed a medical history form and was
17 weighed by the receptionist/nurse.

18 C. Although she had told the nurse that she may have
19 a slight pain in her right arm, the agent admitted to
20 respondent that she did not have any pain, but that she used
21 to take Tylenol with Codeine and she needed some more. She
22 asked respondent if he could give her some "#4's" (Tylenol
23 with 60 mg. of codeine per dosage unit).

24 D. The agent was given a prescription for 50 Tylenol
25 with Codeine #4 written by respondent without a good faith
26 prior examination and without medical indication.

27 //

1 July 20, 1990

2 E. On or about July 20, 1990, undercover agent "O [REDACTED]"
3 returned to the Aliso Medical Clinic.

4 F. The receptionist/nurse weighed the agent and asked
5 her the nature of the visit. The agent replied she came in
6 to get more Tylenol.

7 G. The agent asked respondent for more Tylenol #4, but
8 respondent refused, stating the "narcotics people" might get
9 suspicious because respondent had nothing in her record or any
10 X-rays on her. Respondent further stated that a pharmacy
11 might report him for writing another prescription of "#4's"
12 so soon. The agent then asked for Tylenol #3 (Tylenol with
13 30 mg. of codeine per dosage unit).

14 H. The agent was given a prescription for 50 Tylenol
15 with Codeine #3 written by respondent without a good faith
16 prior examination and without medical indication.

17 August 10, 1990

18 I. On or about August 10, 1990, special agent "O [REDACTED]"
19 again visited the Aliso Medical Clinic.

20 J. The receptionist told the agent if she just needed
21 a refill on her prescription, it was not necessary to see
22 respondent. The agent said she would like more Tylenol #4.
23 The nurse asked the agent to wait while she consulted with
24 respondent, then returned and said respondent couldn't provide
25 the Tylenol #4. The agent said she would take the Tylenol #3.

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1 K. The agent was given a prescription for 50 Tylenol
2 with Codeine #3 written by respondent without a good faith
3 prior examination and without medical indication.

4 August 20, 1990

5 L. On or about August 20, 1990, a Special Agent of the
6 DEA using the undercover identity "Emilio T [REDACTED]" visited the
7 Aliso Medical Clinic.

8 M. The receptionist/nurse questioned the agent about
9 his medical background and the reason for his visit. He said
10 he was experiencing hot and cold sweats and was trembling.

11 N. The agent told respondent he was not in pain, but
12 he just wanted to take Tylenol with Codeine to forget his
13 troubles.

14 O. The agent was given prescriptions for 50 Tylenol
15 with Codeine #3 and 30 Xanax (1 mg.) written by respondent
16 without a good faith prior examination and without medical
17 indication.

18 September 13, 1990 -- Estella O [REDACTED]

19 P. On or about September 13, 1990 undercover agent
20 "O [REDACTED]" returned to the Aliso Medical Clinic.

21 Q. The nurse weighed the agent, then directed her to
22 an examining room.

23 R. The agent requested Tylenol #4. Respondent refused
24 to write a prescription for Tylenol #4, stating that
25 pharmacies report such prescriptions to the "narcotic people,"
26 and the more the pharmacies report, the more chance of the
27 "narcotic people" checking him out.

1 S. The agent was given a prescription for 50 Tylenol
2 with Codeine #3 written by respondent without a good faith
3 prior examination and without medical indication.

4 September 13, 1990 -- Emilio T [REDACTED]

5 T. On or about September 13, 1990 undercover agent
6 "T [REDACTED]" again went to the Aliso Medical Clinic.

7 U. The agent asked respondent for Tussionex. He also
8 asked for Tylenol with Codeine. Respondent said he would give
9 the agent only a small vial of Tussionex. Respondent
10 explained that Tussionex contained a large amount of codeine,
11 and when people ask for certain cough syrups pharmacists
12 realize that people are "into drugs."

13 V. The agent was given prescriptions for 50 Tylenol
14 with Codeine #3 and 4 ounces of Tussionex written by
15 respondent without a good faith prior examination and without
16 medical indication.

17 October 15, 1990

18 W. On or about October 15, 1990, undercover agent
19 "O [REDACTED]" returned to the Aliso Medical Clinic.

20 X. A nurse weighed the agent and asked if she was there
21 for back pain. The agent answered in the affirmative.

22 Y. The agent asked respondent for Tylenol with Codeine
23 #3 and Tussionex.

24 Z. The agent was given prescriptions for 45 Tylenol
25 with Codeine #3 and 4 ounces of Tussionex written by
26 respondent without a good faith prior examination and without
27 medical indication.

1 Conclusion

2 AA. In 1990, Tylenol with Codeine #3, Tylenol with
3 Codeine #4, Tussionex (Dihydrocodeinone), and Xanax
4 (Alprazolam) were dangerous drugs within the meaning of
5 Business and Professions Code section 4211 in that they were
6 unsafe for self-medication.

7 BB. In 1990, Tylenol with Codeine #3, Tylenol with
8 Codeine #4, and Tussionex were controlled substances included
9 in Schedule III, per Health and Safety Code section 11056.

10 CC. In 1990, Xanax was a controlled substance included
11 in Schedule IV, per 21 C.F.R. section 1308.14.

12 DD. In 1990, Tylenol with Codeine #3, Tylenol with
13 Codeine #4, Tussionex, and Xanax were dangerous drugs within
14 the meaning of Business and Professions Code section 4211 in
15 that, by federal and/or state law, controlled substances in
16 Schedules III and IV could be lawfully dispensed only on
17 prescription.

18 II

19 VIOLATIONS OF FEDERAL AND STATE DRUG STATUTES

20 14. Respondent is subject to disciplinary action under
21 section 2234, subdivision (a), in conjunction with section 2238,
22 subdivision (a), in that he violated and/or attempted to violate,
23 directly or indirectly, and/or assisted in or abetted the violation
24 of or conspired to violate a federal statute or regulation and/or
25 a state statute or regulation regulating dangerous drugs or
26 controlled substances on seven occasions in 1990. The
27 circumstances are as follows:

A. The facts set forth in paragraph 13, subparagraphs A through Z, are incorporated here by reference.

B. The facts in subparagraph A, above, constitute seven violations of federal statutes and/or federal regulations regulating dangerous drugs or controlled substances, including but not limited to Title 21 of the United States Code, section 841(a)(1), which provides that "it shall be unlawful for any person knowingly or intentionally to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance."

C. The facts in subparagraph A, above, constitute seven violations of state statutes and/or state regulations regulating dangerous drugs or controlled substances, including but not limited to Health and Safety Code section 11153, which provides that "[a] prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. . . . "

III

CONVICTION OF A FEDERAL DRUG VIOLATION

15. Respondent is subject to disciplinary action under section 2237, subdivision (a), in that he was convicted in 1991 of two counts of violating Title 21 of the United States Code, section 841(a)(1), by illegally distributing controlled substances. The circumstances are as follows:

A. On or about February 14, 1991, respondent was charged in United States District Court for the Central District of California with two counts of illegal distribution

1 of controlled substances, based on the facts set forth in
2 paragraph 13, subparagraphs A through D and W through Z.

3 B. On or about May 13, 1991, respondent was convicted
4 of two counts of violating Title 21 of the United States Code
5 section 841(a)(1), illegal distribution of controlled
6 substances, in case number CR 91-134-TJH of the United States
7 District Court, Central District of California (United States
8 of America v. Chester Ray Barnes).

9 IV

10 CONVICTION OF A CRIME

11 16. Respondent is subject to disciplinary action under
12 section 490 and under section 2236, subdivision (a), in that he was
13 convicted in 1991 of a crime which is substantially related to the
14 qualifications, functions, or duties of a physician and surgeon,
15 illegal distribution of controlled substances. The circumstances
16 are more fully set forth in paragraphs 13 and 15, which are
17 incorporated here by reference.

18 V

19 GROSS NEGLIGENCE

20 17. Respondent is subject to disciplinary action under
21 section 2234, subdivision (b), in that he committed acts of gross
22 negligence when he prescribed controlled substances without a good
23 faith prior examination and without medical indication on seven
24 occasions in 1990. The circumstances are more fully set forth in
25 paragraph 13, subparagraphs A through Z, which are incorporated
26 here by reference.

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VI

REPEATED NEGLIGENT ACTS

18. Respondent is subject to disciplinary action under section 2234, subdivision (c), in that he committed repeated negligent acts when he prescribed controlled substances without a good faith prior examination and without medical indication on seven occasions in 1990. The circumstances are more fully set forth in paragraph 13, subparagraphs A through Z, which are incorporated here by reference.

VII

INCOMPETENCE

19. Respondent is subject to disciplinary action under section 2234, subdivision (d), in that he acted incompetently when he prescribed controlled substances without a good faith prior examination and without medical indication on seven occasions in 1990. The circumstances are more fully set forth in paragraph 13, subparagraphs A through Z, which are incorporated here by reference.

VIII

EXCESSIVE PRESCRIBING

20. Respondent is subject to disciplinary action under section 725 in that he committed repeated acts of clearly excessive prescribing of drugs on seven occasions in 1990. The circumstances are more fully set forth in paragraph 13, subparagraphs A through Z, which are incorporated here by reference.

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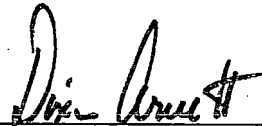
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PRAYER

WHEREFORE, complainant requests that a hearing be held on the matters herein alleged, and that if these allegations, or any of them, are found to be true, that the Division of Medical Quality make its order:

1. Revoking or suspending Physician and Surgeon's Certificate No. A28934, heretofore issued to respondent; and
2. Taking such other action as the Division deems necessary and proper.

DATED: October 19, 1993



DIXON ARNETT
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

CLIP
AMMOTILAS TO STATE
MEDICAL BOARD OF CALIFORNIA
OF
AMMOTILAS TO STATE
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BARNES\ACC.FIN

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12 **STATE OF CALIFORNIA**

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16 Los Angeles, California 90033)
17 Physician's and Surgeon's)
18 Certificate No. A28934)
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Respondent.)

20 Complainant, as cause for discipline of respondent's
21 physician and surgeon's license in addition to the causes alleged
22 previously, alleges:

23 PARTIES

24 21. Complainant, DIXON ARNETT, is the Executive Director
25 of the Medical Board of California (hereinafter "the Medical
26 Board"); he makes and files this first supplemental accusation
27 solely in his official capacity.

1 22. On or about March 21, 1975, respondent, CHESTER R.
2 BARNES, M.D., was issued Physician and Surgeon's Certificate Number
3 A28934, and at all times relevant to the charges brought herein
4 this license has been in full force and effect.

5 JURISDICTION

6 23. Section 2003 of the Business and Professions Code^{1/}
7 provides, in pertinent part, that the Medical Board includes a
8 Division of Medical Quality (hereinafter "the Division"). Section
9 2004 provides, in pertinent part, that the Division is responsible
10 for the enforcement of the disciplinary provisions of the Medical
11 Practice Act; the administration and hearing of disciplinary
12 actions; carrying out disciplinary actions appropriate to findings
13 made by a medical quality review committee, the division or an
14 administrative law judge; and suspending, revoking or otherwise
15 limiting certificates after the conclusion of disciplinary actions.

16 24. Section 2227 provides that a licensee whose matter
17 has been heard or whose default has been entered and who is found
18 guilty may have his or her license revoked, have his or her right
19 to practice suspended for a period not to exceed one year, be
20 placed on probation, be publicly reprimanded, and have any other
21 action taken in relation to discipline as the division or an
22 administrative law judge may deem proper.

23 25. Section 2234 provides that the Division shall take
24 action against any licensee who is charged with unprofessional
25 conduct. In addition to acts prohibited by other provisions of
26

27 1. All statutory references are to the Business and
Professions Code, unless otherwise indicated.

1 Article 12 (sections 2220 through 2319), unprofessional conduct
2 includes, but is not limited to, the following:

3 "(a) Violating or attempting to violate, directly or
4 indirectly, or assisting in or abetting the violation of, or
5 conspiring to violate, any provision of this chapter [the Medical
6 Practice Act, sections 2000 through 2529.5].

7 "

8 "(e) The commission of any act involving dishonesty or
9 corruption which is substantially related to the qualifications,
10 functions, or duties of a physician and surgeon."

11 26. Section 2261 provides that "[k]nowingly making or
12 signing any certificate or other documents directly or indirectly
13 related to the practice of medicine or podiatry which falsely
14 represents the existence or nonexistence of a state of facts,
15 constitutes unprofessional conduct."

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1 ADDITIONAL CAUSE FOR DISCIPLINING LICENSE IN THIS CASE

2 MAKING FALSE STATEMENTS

3 27. Respondent is subject to disciplinary action under
4 section 2234, subdivision (a), in conjunction with section 2261,
5 in that he knowingly made or signed a certificate or other document
6 directly or indirectly related to the practice of medicine which
7 falsely represents the existence of nonexistence of a state of
8 facts when he made and signed a renewal application for DEA
9 registration on or about July 12, 1993, indicating that he had
10 never been convicted of a crime in connection with controlled
11 substances under State or Federal law when in fact he was convicted
12 on or about May 13, 1991, of illegal distribution of controlled
13 substances in case number CR-91-134-TJH in the United States
14 District Court, Central District of California (United States of
15 America v. Chester Ray Barnes), as previously alleged in paragraph
16 15 of the Accusation.

17 28. Respondent is subject to disciplinary action under
18 section 2234, subdivision (e), in that he committed an act
19 involving dishonesty which is substantially related to the
20 qualifications, functions, or duties of a physician and surgeon
21 when he made and signed a renewal application for DEA registration
22 on or about July 12, 1993, indicating that he had never been
23 convicted of a crime in connection with controlled substances under
24 State or Federal law when in fact he was convicted on or about May
25 13, 1991, of illegal distribution of controlled substances in case
26 number CR-91-134-TJH in the United States District Court, Central
27 //

1 District of California (United States of America v. Chester Ray
2 Barnes), as previously alleged in paragraph 15 of the Accusation.

3 PRAYER

4 WHEREFORE, complainant requests that a hearing be held on the
5 matters herein alleged, and that if these allegations, or any of
6 them, are found to be true, that the Division of Medical Quality
7 make its order:

8 1. Revoking or suspending Physician and Surgeon's
9 Certificate No. A28934, heretofore issued to respondent; and

10 2. Taking such other action as the Division deems
11 necessary and proper.

12
13 DATED: January 21, 1994

14
15 Bessie Jan Goldstein
16 for DIXON ARNETT
17 Executive Director
18 Medical Board of California
19 Department of Consumer Affairs
20 State of California
21 Complainant

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